

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.:4:19-CV-10520-TSH

CHARU DESAI,
Plaintiff,

v.

UMASS MEMORIAL MEDICAL
CENTER, INC., et al.,
Defendants.

**SUPPLEMENTAL AFFIDAVIT OF
REID M. WAKEFIELD, ESQ., IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT BY
DEFENDANT, KARIN DILL, M.D.**

I, Reid M. Wakefield, hereby depose and state as follows:

1. I am employed as an attorney with the law firm Mirick, O'Connell, DeMallie, & Lougee, LLP, and have been retained as defense counsel, along with Robert L. Kilroy, Esq., for Defendant, Karin Dill, M.D., in the above-referenced action.

2. I have personal knowledge of the facts contained within this affidavit.

3. I attest to the following Exhibits, which are attached hereto, as containing true and accurate copies of the documents referenced therein:

4. **Exhibit J** is a true and accurate copy of emails exchanged between Max Rosen, M.D., Karin Dill, M.D., and Kelly Emrich, dated February 12-15, 2018.

5. **Exhibit K** is a true and accurate copy of the Second Affidavit of Max Rosen, M.D., M.P.H., dated March 3, 2022.

Signed under pains and penalties of perjury this 4th day of March, 2022.

/s/ Reid M. Wakefield
Reid M. Wakefield, Esq.

EXHIBIT J

From: Rosen, Max <Max.Rosen@umassmemorial.org>
Sent: Thursday, February 15, 2018 9:36 PM
To: Dill, Karin <Karin.Dill@umassmemorial.org>
Subject: Re: QA chest follow-up secure

Thanks

Sent from my iPhone

On Feb 15, 2018, at 5:44 PM, Dill, Karin <Karin.Dill@umassmemorial.org> wrote:

Hi
Will do ASAP, thank you.

On Feb 15, 2018, at 5:30 PM, Rosen, Max <Max.Rosen@umassmemorial.org> wrote:

Hi Karen

Can you take a look at these CXRs and see if you agree / disagree / etc.

Thanks. Max

From: Rosen, Max
Sent: Monday, February 12, 2018 10:06 AM
To: Emrich, Kelly <Kelly.Emrich@umassmemorial.org>
Subject: QA chest followup

Hi Kelly

For the cases below, can you let me know

1. If any were read-out with a resident?
2. If so, who the resident was?
3. And which PACS station they were read on?

Thanks. Max

Max P. Rosen, MD MPH
Professor and Chair
U Mass Memorial Medical Center
U Mass School of Medicine
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EXHIBIT K

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 4:19-cv-10520-TSH

CHARU DESAI,
Plaintiff,

v.

UMASS MEMORIAL MEDICAL
CENTER, INC., et al.,
Defendants.

**SECOND AFFIDAVIT OF
MAX ROSEN, M.D., M.P.H.**

I, Max Rosen, M.D., M.P.H, hereby depose and state as follows:

1. I am the Chair of the Department of Radiology for UMass Memorial Health (the “Department”), and in this capacity I have personal knowledge of the facts set forth herein.
2. I was appointed as the Chair of the Department effective September 1, 2012.
3. Jerry Balikian, M.D., was the only radiologist in the Department since I have been Chair who met the criteria to be exempt from call under the call policy, due to his age being over 72, his academic rank of Professor, and his tenure with the Department.
4. Dr. Balikian retired from the Medical Group in 2015 at age 88.
5. Academic time is not provided to members of the Department for teaching responsibilities conducted in the course of routine clinical work, including teaching Radiology residents and/or medical students in the reading room. Every regularly-employed radiologist who holds a UMass Chan Medical School faculty appointment is required to engage in the teaching of medical students as a part of their regular job duties as a member of the faculty of the Medical School.

6. In certain cases, academic time is granted for teaching or educational activities which are substantial and outside of a faculty member's regular job duties, such as giving formal lectures or performing research or mentoring projects with Radiology residents and/or medical students.

7. Every regularly-employed radiologist performs teaching responsibilities in the reading room, but all such radiologists do not receive academic time.

8. No radiologist in the Department has received administrative or academic time for serving on the Quality Improvement Committee, with the exception of Steven Baccei, M.D., who served as the Vice Chair for Quality, Patient Safety and Process Improvement.

9. The percentage of activities allocated between clinical and educational time listed in the Faculty Annual Performance Review forms for clinical staff is a default 75% clinical and 25% educational. Virtually all regularly-employed clinical faculty have the same 75% to 25% allocation on these forms.

10. Edward H. Smith, M.D., was Chair of the Department until approximately 2002.

11. Philip Steeves, M.D., utilized a home workstation beginning in 2017 because he was a per diem employee who worked entirely remotely on an as-needed basis.

12. Carolyn Dupuis, M.D., utilized a home workstation beginning in 2017 because the Department wanted to trial the use of remote workstations for the Emergency Department and she agreed to trial the technology as an ED radiologist. Dr. Dupuis is a female.

13. It was never my practice to offer the role of Division Chief to the most senior radiologist in a division. I have always selected Division Chiefs based on who would be the best person for the job and who would best serve the needs of the Department and the particular subspecialty.

14. At the time the Chief of the Chest Division, Karin Dill, M.D., left employment in 2019, the most senior dedicated chest radiologist in the Department was Marile Barile, M.D. Dr. Barile was born in 1977.

15. The document attached as **Exhibit A** is a redacted summary of data from the quality assurance system, which was obtained and evaluated as a part of a greater review of the quality of Ronald Garrell, M.D., which ultimately led to the termination of his employment.

16. In March of 2018, Charles Cavagnaro, M.D., was the Interim Senior Vice President and Chief Medical Officer of the Medical Center, and attended the March 14, 2018, meeting with Dr. Desai and I, in that capacity.

17. During the time I was Chair, Dr. Desai never physically worked at Marlborough Hospital.

18. The Medical Group has had open requisitions posted for chest radiologists continuously since at least 2016. I have been recruiting chest radiologists constantly over the past several years.

19. In February of 2018, I requested that Dr. Dill review the reads, which comprised almost all x-rays, performed by Dr. Desai for a single day. A concern arose related to a study assigned to Dr. Desai that was read by a resident, and I wanted to evaluate the other reads that were performed that day, particularly those read with a resident. This request to Dr. Dill had nothing to do with the independent review performed on Dr. Desai's CT reads. This review played no role in and had no relationship to my decision to terminate Dr. Desai's employment.

20. In 2018 and 2019, Maria Barile, M.D., earned \$330,000 per year.

21. Brian Brochu, M.D., was paid a higher salary due to his leadership and administrative role with within the Department, which involved additional clinical skills and

responsibilities as well. Dr. Brochu served as the Chief of Radiology for Marlborough Hospital. His duties in this role included managing the Medical Group's services provided to Marlborough Hospital under its services agreement, leading the provision of community radiology services there, collaborating with Marlborough Hospital officials, and overseeing staffing coverage for the reading of studies originating from Marlborough Hospital. Dr. Brochu also performs interventional radiology, including CT and ultrasound-guided procedures, and the insertion of PICC lines.

Signed under pains and penalties of perjury this 3rd day of March 2022.



Max Rosen, M.D., M.P.H.

EXHIBIT A

Count of Accession Number	Column Labels				
Row Labels	1	2	3	4	Grand Total
S. A.	61				61
S. B.	101		7		108
J. B.	35				35
A. B.	125	1	2	4	132
D. B.	16				16
N. B.	5				5
D. B.	116	2			118
S. B.	8	1	1	1	11
B. B.	101	2	2	4	109
C. C.	122		3		125
A. C.	74	2			76
B. C.	208	6	5		219
D. C.	353	5	4	1	363
K. C.	23	1		1	25
S. D.	15				15
C. D.	150				150
Desai, Charu	55	2	2	1	60
K. D.	16				16
S. D.	72				72
C. D.	310	3	3	1	317
J. F.	165		4	3	172
R. G.	342	1	10	6	359
J. G.	203	4	3		210
B. G.	1				1
E. G.	141				141
S. H.	242	4	1		247
M. K.	25				25
A. K.	73	7	2		82
Y. K.	54	6	2	2	64
S. K.	35		1		36
M. K.	110				110
J. L.	119	1			120
R. L.	23	10			33
H. L.	310	6	5	2	323
J. L.	29			1	30
S. M.	139				139
J. M.	174	4	5	1	184
F. M.	74		3		77
A. N.	88				88
K. P.	25		1		26
N. P.	4				4
L. P.	65	3			68
K. R.	37	2	5	2	46
D. R.	9				9

F. R.	215		2	1	218
E. S.	100	1			101
G. S.	81				81
K. S.	98				98
A. S.	37				37
H. S.	108	1	2		111
A. S.	80	1			81
P. S.	80		4		84
P. S.	147				147
D. T.	57	1			58
D. T.	23				23
G. V.	187		1		188
C. W.	192	1	7		200
J. W.	113				113
C. W.	17		1		18
S. W.	4			2	6
S. W.	2		1		3
S. W.	2				2
L. Z.	79	2	2	1	84
Grand Total	6075	80	91	34	6280
	96.74%	1.27%	1.45%	0.54%	
RG	342	1	9	4	356
	96.07%	0.28%	2.53%	1.12%	

RON - UNCORRECTED

95.26%

0.28%

2.79%

1.67%